

ORDINANCE 2013-07

AN ORDINANCE AMENDING AND RESTATING TITLE 13, CHAPTER 130, SECTION 130.9.1 OF THE NEWBURGH CODE OF ORDINANCES REGARDING PLANNED UNIT DEVELOPMENT

WHEREAS, by Ordinance 2005-9, the Town created Title 13, Chapter 130, Section 130.9.1 of the Newburgh Code of Ordinances allowing the utilization of Planned Unit Developments within the Town by creating a Planned Unit Development (PUD) zoning classification.

WHEREAS, Section 130.9.1(B)(1) of the Newburgh Zoning Code set forth a minimum area requirement of one (1) acre of contiguous land for PUD classification.

WHEREAS, the Town wishes to amend and restate Title 13, Chapter 130, Section 130.9.1 of the Newburgh Code of Ordinances to remove the minimum area requirement for PUD classification.

Be it ordained:

Section 1: Title 13, Chapter 130, Section 130.9.1, of the Newburgh Code of Ordinances, titled PLANNED UNIT DEVELOPMENT, is hereby amended and restated in its entirety as follows:

130.9.1 PLANNED UNIT DEVELOPMENT (PUD)

(A) PURPOSE AND INTENT

The intent and purpose of this chapter is to provide greater design flexibility in the development of land when consistent with the comprehensive plan. The use of a planned unit development (PUD) classification is deemed to be appropriate when the use of such regulations under this chapter promote a harmonious variety of uses; provides for an economy of shared services and facilities; and is compatible with surrounding areas fostering the creation of attractive, healthy, efficient and stable environments for living, shopping or working. PUD regulations are intended to encourage innovations in land development techniques so that the growing demands of the community may be met with greater flexibility and variety in type, design, and layout of sites and buildings and by the conservation and more efficient use of open spaces and other amenities generally enhancing the quality of life.

(B) GENERAL REQUIREMENTS

1. PERMITTED USES IN PUD DISTRICT: A PUD may be utilized in any of the following zoning districts: R-1, R-2, R-3, R-4

(C) APPLICATION PROCEDURE

Applications for PUD district shall be submitted according to the following procedures:

1. DEVELOPMENT PLAN: A Development Plan prepared by a registered professional engineer or land surveyor submitted to the Planning Commission in the form prescribed by this chapter.
2. FORM OF SUBMISSION: The Development Plan and any supporting map shall be clearly and legibly drawn at a maximum scale of one hundred (100) ft to one (1) inch on a sheet or sheets twenty (24) X thirty-six (36) inches. The Commission reserves the right to require that the submission to be of a different scale when necessitated for purposes of legibility due to the size and area involved.
3. INFORMATION: The Development Plan must show the following:
 - (a) Title of project, including names and addresses of applicant.
 - (b) North point, graphic scale and date.
 - (c) A legal description.
 - (d) The existing site conditions including contours at five (5) feet intervals, water course, flood plains, unique natural features and forest cover.
 - (e) Proposed lot lines and plot designs.
 - (f) The location and floor area site of all existing and proposed buildings, structure and other improvements including maximum heights, type of building units, density per type and non-residential structures.
 - (g) The location and size in acres or square feet of all areas to be conveyed, dedicated, or reserved as common open spaces, parks, recreation areas, and similar uses.
 - (h) The existing and proposed circulation system of arterial, collector, and local streets including off street parking areas, any service areas, and major points of access to public rights of way (including major points of ingress and egress to the development).
 - (i) The existing and proposed pedestrian circulation system, including

its interrelationships with the vehicular circulation system, including proposed treatments of points of conflict.

(j) The existing and proposed utility systems including sanitary sewers, storm sewers, and water, electric, gas and telephone lines. Written documentation must be furnished by the applicant verifying that all utility systems affected have adequate capacity for the proposed PUD.

(k) All properties, subdivisions, streets, easements, zoning classifications and public facilities adjacent to the proposed area for the PUD shall be indicated.

(l) The proposed treatment of the perimeter of the PUD including materials and techniques used such as screens, walls and fences.

D. FILING FEE:

At the time of filing for a PUD application with development plan, the application must be accompanied by the appropriate fees as set by the Town.

E. NOTICE OF PUBLIC HEARING:

If the Zoning Administrator is satisfied that the standards of this chapter have been met, the Plan Commission shall set a date for a public hearing before the Commission, giving written notification in the same manner as provided for rezoning applications and applications for primary plat approval.

F. GENERAL DEVELOPMENT REQUIREMENTS

All developments plans submitted shall adhere to the following general development requirements.

1. Proof of compliance with all provisions of the Subdivision Control Ordinance that would be applicable for the submission of an application for primary plat approval with the exception of those requirements which are specifically relaxed or modified by the provisions of this Article.
2. A plan for the management of traffic to be generated by the proposed development that includes the design, location of proposed streets and highway access points.
3. Management of erosion and sediment control in compliance with all applicable governmental rules and regulations and also in a manner that

minimizes damage to adjacent property, drainage channels, roads and other sensitive areas.

4. Storm water management plan showing compliance with all applicable local, state and federal standards and other necessary specifications to protect adjacent down stream areas due to additional water run off, drainage or flooding.

5. Proof that any outdoor illumination will not create a nuisance or interfere with the use and/or quiet enjoyment of surrounding properties based upon generally accepted engineering design guidelines.

6. In case of common areas to be dedicated as part of the development plan, specific submission of appropriate covenants and restrictions for purposes of ownership and maintenance of said common areas.

7. For all infrastructure which is not intended to be dedicated to the public, specification of plans, documents and/or covenants and restrictions to assure appropriate maintenance of said infrastructure.

8. Pursuant to IC. 36-7-4-1511 the Town Council delegates to the Plan Commission the power to grant secondary approval of development plans. Any party aggrieved by the approval of said development plan, shall have the right to seek judicial review of said decision of the plan commission pursuant to I.C. 36-7-4-10 16.

G. POWER OF LEGISLATIVE BODY REGARDING PUD APPLICATIONS

Adoption of a PUD district classification may only be done by the Town Council following the approval of the development plan by the plan commission as set forth in the preceding section.

In the approval of a PUD district classification, the legislative body may impose reasonable conditions including, but not limited to, conditions on the issuance of improvement location permits, the requirement of the furnishing of a bond or satisfactory written assurance guaranteeing the timely completion of proposed public improvements and/or require an owner/applicant to make a written commitment in the manner authorized under I.C. §36-7-4-6 14 or I.C. §36-7-4-6 15.

H. SUBMISSION OF FINAL DETAILED DEVELOPMENT PLAN

After receiving conditional approval from the Newburgh Advisory Plan Commission on a preliminary development plan, the applicant may submit its final detailed development plan which shall conform to the approved preliminary development plan.

1. Form of Submission:

The Final Detailed Plan shall be submitted to the Newburgh Advisory Planning Commission drawn at a scale of one-hundred (100) *ft.* to one (1) inch on a sheet or sheets twenty-four (24) inches by thirty-six (36) inches. Planning Commission reserves the right to require that the submission to be of a different scale when necessitated for purposes of legibility due to the size and area involved. On reproducible transparency accompanied by six (6) black line or blue line reproductions, all becoming the property of the Newburgh Advisory Plan Commission. The final detailed development plan must be submitted within one (1) year from the date of approval of the preliminary development plan unless upon application of the applicant, the Commission grants an extension. If the final detail development plan application has not been submitted within this time limit and no extension granted, the preliminary development plan shall be considered null and void and no further action shall be taken except by re-application.

2. Information:

The final detailed development plan shall conform substantially to the preliminary development plan that has received preliminary plan approval. It should incorporate any revisions or other features that may have been recommended by the Newburgh Advisory Plan Commission at the preliminary review. The final detailed development plan shall conform to the requirements of the Subdivision Control Ordinance where applicable.

3. Action on the Final Detailed Development Plan:

The Zoning Administrator shall examine the final development plan to determine whether it conforms with the preliminary development plan. Upon approval, the Administrator shall affix the Commission's seal upon the final detailed development plan together with the certifying signatures of its President and Secretary of the Plan Commission.

4. Recording of Final Detailed Development Plan:

The final detailed development plan must be recorded within one (1) year from the date of approval. If not recorded within this time limit, the plan shall be considered null and void.

5. Staging and Plan Changes:

Any Plan which requires more than thirty-six (36) months to complete may be constructed in phases with the final development plan being submitted for approval by sections. If the PUD is phased and the final detailed development plan submitted in sections, it is expected that changes in the approved final

development plan will be required from time to time. In order to preserve the flexibilities which are fundamental to a development plan, changes are permitted subject to the limitations listed below:

- (a) The changed plan must meet the basic objectives and all regulations and requirements of this Chapter.
- (b) The Zoning Administrator may approve minor changes regarding building sizes and building locations which do not substantially change or make more permissive or less restrictive than the preliminary detailed development plan which was approved by the Plan Commission.
- (c) Any major plan change must be submitted to the Plan Commission for re-approval.

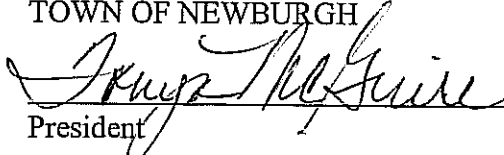
6. Final Development Plan Approval:

- (1) Detailed development plan review and approval under the provisions of this Chapter shall be considered and reviewed by the Plan Commission in the same manner as subdivisions under the Newburgh Subdivision Control Ordinance .
- (2) Applicant shall be required to post letters of credit prior to completion of required infrastructure and other required and/or mandated improvements in the same manner as prescribed by the Subdivision Control Ordinance.
- (3) Plan Commission shall be permitted to charge fees for the services and applications permitted herein as set out in an ordinance establishing certain fees relating to various permits involving land use in the Town of Newburgh.

Section 3: This Ordinance shall be in full force upon its adoption.

Adopted this 9th day of Sept., 2013.

TOWN COUNCIL OF THE
TOWN OF NEWBURGH

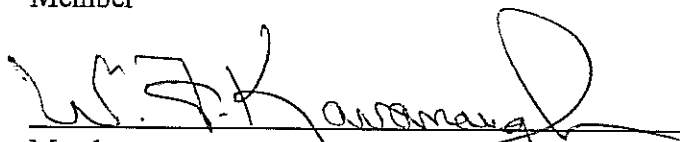


President

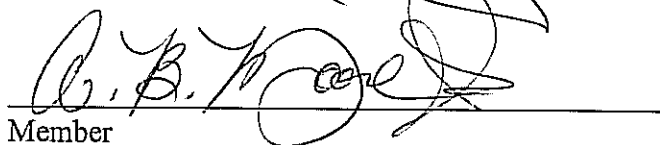


Member

Member

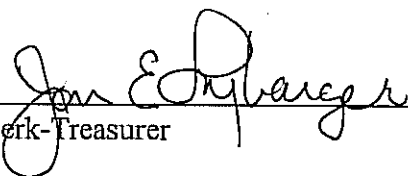


Member



Member

ATTEST:


Clerk-Treasurer